IN THE HIGH COURT OF JUDICATURE OF
ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE MRS. JUSTICE T.MEENA KUMARI
AND
THE HON'BLE MR. JUSTICE G.CHANDRAIAH

WRIT PETITION NO. 15129 OF 2007

Dated : July 17, 2007

Between:

The Deputy Superintending Engineer,
G.V.Circle-IV, LMD Colony,
Karimnagar District and others

Petitioners

AND

J.Shankaraiah

Respondent

THE HON'BLE MRS. JUSTICE T.MEENA KUMARI
AND
THE HON'BLE MR. JUSTICE G.CHANDRAIAH

WRIT PETITION NO. 15129 OF 2007

ORAL ORDER: **(per THE HON'BLE MRS. JUSTICE T.MEENA KUMARI)**

This writ petition is filed seeking a writ of certiorari calling for the records relating to the order dated

06.07.2006 made in O.A. No.1826 of 2006 by the A.P Administrative Tribunal, Hyderabad, and to quash the same as illegal and arbitrary.

The respondent herein filed the above O.A. before the Tribunal assailing the proceedings E3/GVC.4 of the first respondent, whereby the incentive increments sanctioned earlier was cancelled and also ordered recovery of the amount paid. It is his case that the introduction of incentive increment in the year 1984 by GO Ms. No. 52 dated 23.1.1984 was recommend by the PRC 1999, yet no orders were passed by the Government and, therefore, cancellation of the same and consequential recovery is arbitrary.

The case of the petitioners herein, before the Tribunal was that the Accountant General has raised objection on the basis of recommendations of PRC 1999 to which they replied to the first respondent stating that no orders were passed in respect of the recommendations of the PRC, It is further stated that the Government has issued clarification Memo No. 1943/32/A1/PC.I/2006 dated 3.3.2006 to the effect that the recommendations of the PRC – 1999 on pay scales including discontinuance of sanction of advance increments have been adopted from 1.7.1998.

The Tribunal, having heard learned counsel for the parties, allowed the O.A. observing that the incentive

increment which was also granted at the time of when the Family Planning Scheme was in vogue, cannot be taken away retrospectively.

Aggrieved thereby, the Departmental preferred this Writ Petition.

As can be seen from the counter affidavit filed by the 1st petitioner before the Tribunal, they admitted that no orders were passed by the Government in respect of the recommendations of the PRC – 1999, yet they have obliged the objection raised by the Accountant General and issued the impugned proceedings canceling the incentive increments and also ordered for recovery of the amount. That apart, as observed by the Tribunal, even if the recommendations of the PRC are accepted with retrospective effect, that will be only for the purpose of fixation of pay, but the incentive increment which had been granted at the time when the scheme was in vogue, cannot be taken away with retrospective effect. Therefore, we are of the considered view that the Tribunal is perfectly justified in observing that since no valid orders were passed by the Government withdrawing the scheme as on the date of granting incentive increment to the respondent in the year 1999, the incentive increments granted earlier, cannot be cancelled and the amounts already paid, cannot also be recovered. Therefore, having regard to the facts and circumstances, we find no illegality

or irregularity in the order passed by the Tribunal warranting interference.

Consequently, the writ petition is dismissed, being devoid of merits. No order as to costs.

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T.MEENA KUMARI, J.

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G.CHANDRAIAH, J.

July 17, 2007
MAS